

01-0457 D.W. v. Utah Dept. Corrections Issued 2-19-01

D. W. asks the Utah Labor Commission to review the Administrative Law Judge's denial of Mr. W.'s claim for benefits under the Utah Workers' Compensation Act ("the Act"; Title 34A, Chapter 2, Utah Code Ann.).

The Labor Commission exercises jurisdiction over this motion for review pursuant to Utah Code Ann. §63-46b-12, Utah Code Ann. §34A-2-801(3) and Utah Admin. Code R602-2-1.M.

ISSUE PRESENTED

Did Mr. W. notify his employer of his alleged work-related injury within 180 days from the date of such injury, as required by §34A-2-407 of the Act.

FINDINGS OF FACT

The Commission adopts the findings of fact set forth in the decision of the ALJ.

DISCUSSION AND CONCLUSION OF LAW

The sole issue before the Commission is whether Mr. W. complied with the requirement of §34A-2-407 of the Act by providing his employer with notice of his alleged work-related injury within 180 days of the date of injury.

The Commission notes there exists some evidence, in the form of Mr. W.'s own testimony, that the requisite notice was given. However, after considering the entire record, the Commission agrees with the ALJ's analysis and conclusion that the preponderance of evidence establishes Mr. W. did not, in fact, provide timely notice of his alleged work-related injury to his employer. Consequently, Mr. W.'s claim is barred by §34A-2-407 of the Act.

ORDER

The Commission affirms the decision of the ALJ and denies Mr. W.'s motion for review. It is so ordered.

Dated this 19th day of February, 2002.

R. Lee Ellertson, Commissioner